

1. In total breach of trust and confidence causing the transfer of the suit land into the names of the defendant without the consent and knowledge of the late Nabanoba Deziranta.
2. Stating that the late Nabanoba Deziranta gave the said land to the defendant as a gift *intervivos* and with no deed of assignment.
3. Forging the thumbprint of the late Nabanoba Deziranta to cause the transfer of the suit land into the name of the defendant.
4. The defendant making efforts to deprive the rightful beneficiaries of their shares in the estate of the late Nabanoba Deziranta.

On the other hand, the defendant in her written statement of defence contended that the transfer of the suit land was done with a consent of late Nabanoba Deziranta and Nambooze Edrisa in view of the fact that she had a kibanja on the suit land and given the fact that she funded a civil suit in the High Court to recover the suit land and remove squatters. She denied acts of fraud as stated by the 4th plaintiff.

At scheduling the following issues were raised for determination; -

- (i) Whether the defendant acquired and transferred the suit land into her name fraudulently.
- (ii) Whether the defendant's power of attorney is valid after the death of the donor or not.
- (iii) Whether the registration of the defendant on the duplicate certificate of title for the deceased's land is still legal and valid.
- (iv) What are the remedies available to the parties?

Representation.

At the hearing, the plaintiffs were represented by Counsel Mpagi Sunday while the defendant by Counsel Obed Mwebesa

Both parties filed written submissions which I shall consider in this judgement.

THE LAW

The general rule is that he or she who asserts must prove and the burden of proof therefore rests on the person who must fail if no evidence at all is given on either